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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/618,809	07/18/2000	Robert Brookes	1520A1	8005

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PPG INDUSTRIES INC
INTELLECTUAL PROPERTY DEPT
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EXAMINER
SHAFFER, ERIC T

ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/618,809	BROOKES ET AL.
	Examiner	Art Unit
	Eric T. Shaffer	3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on <u>08 July 2004</u> .

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>47 - 52</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _ is/are allowed.

6) ☒ Claim(s) <u>47 - 52</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

1.   This communication is in response to the amendments filed July 8, 2004.

Summary of Instant Office Action

2.   Applicant's arguments, filed July 8, 2004, concerning claims 47 – 52 in the previous

Office Action have been considered, deemed unpersuasive and are maintained.

No claims have been cancelled or added since the previous office action, and claim 47

has been amended. Claims 47 - 52 are pending and are prosecuted in the response sent out

below.

Claim Objections

3.   Claims 47 – 52 are objected to because of the following informalities: The heading of

each page of the applicant's action refers to S.N. 09/618,808, however the applicant's case is

S.N. 09/608,809. Appropriate correction is required.

Claim Rejections - 35 USC § 101

5.   Claims 47 – 52 are rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

(1) whether the invention is within the technological arts; and

(2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the

technological arts. Mere ideas in the abstract (i.e. abstract idea, law of nature, natural

phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the

"progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences,

for example) and therefore are found to be non-statutory subject matter. For a process claim to

pass muster, the recited process must somehow apply, invoke, use, or advance the technological

arts.

In the present case, the method of coordinating services does not specifically use

technology to carry out any of the non-trivial claimed method steps within the body of the

claims. For example, the steps of claim 47 for providing a database of service providers,

obtaining service needs, receiving data regarding supplemental inducements, obtaining service

need information, generating a list of service providers, ranking service providers and presenting

said list may be performed manually or without the aid of any technology. The mention of

utilizing a computer system in the preamble is merely a nominal recitation of technology, where

the technology component does not take an active part in the performing of the steps within the

method. Furthermore, it is not clear whether the utilizing a computer system in the preamble of

the claim refers to the entire method of coordinating services or just modifies the plurality of

service providers mentioned at the end of the preamble. Thus, claims 47 - 52 do not affect,

effect, or are affected by technology, and thus do not recite statutory subject matter. Use of a

computer, a computer operable medium, or some other technology device mentioned within the

body of the claim language is required for said claims to be patentable.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 47, 48, 51 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Siegrist Jr. et al (US 5,652,842) in view of Borghesi et al (US 5,950,169).

As per claims 47 and 48, Siegrist, Jr et al teaches a method of coordinating services,

comprising the steps of:

providing a database of service providers (column 2, lines 15 – 16, "information

comparing performance of a first provider of services with performances of other providers of

the services. Raw data is stored in a database. From the raw data in the database, a set of

pertinent data is generated appropriate to comparing the performances of the service providers"),

the database including location (figure 12b, "zip code, town, community") and pricing

information (fig 12a, "Dept Cost") and ("Charges", columns 89 – 94, table VI) relating to each

service provider, pricing criteria of the organization and (column 3, lines 40 – 45, "hospital cost

information is usually acquired from the HCA in the form of a Medicare Cost Report, which

includes cost and charge information for the twenty-five departments in every hospital");

receiving from the individual service providers on an ongoing basis data regarding

availability of supplemental inducements for a particular service provider, and updating the

database with current supplemental inducement data;

obtaining service need information concerning a customer of the paying organization,

(column 3, lines 37 – 41, "patient level information, which includes demographic, clinical and

charge data in forty-two categories"), including location of the service need (figure 12a, "Patient

Summary: Hospital - 314, Town, Zip Code - 318"), wherein the fig 12 is a database schema

graphically conveying the information contained in the database;

generating a preliminary and final list of service providers selected from the database

("From the raw data in the database, a set of pertinent data is generated appropriate to comparing

the performances of service providers", column 2, lines 13 - 15) matching the customer's service

need and location ("the parameters input by the user determine, for example, which patient

groups to compare in which hospitals and, therefore, which of the patient level cost and charge

information to retrieve from the database. Once the appropriate information has been retrieved,

the information is accumulated to create total cost and charge information for the chosen patient

groups in the chosen hospitals", column 4, lines 3 - 9) and satisfying the pricing criteria of the

organization, ("a final printed report is generated to provide, among other things, a hospital-by-

hospital comparison of adjusted cost and change information", column 4, lines 17 - 19) where

the accumulated information is in the form of a list (fig. 11b), where the list contains cardiology

as one of the services provided and the first column list the locations of 8 service provider

hospitals. Cost and charge information represent important pricing criteria of an organization

because the purpose of pricing is to wholly recover the cost and the charges necessary to perform

a specific service;

ranking and presenting in order of ranking, at least one of the ranked service providers to

the customer for choice to perform the service (column 10, lines 24 – 49, "The relative rank of

the client hospital's total cost per case in relation to the average total cost per case of the

competing hospitals is then determined. This rank is used to report information of special

interest to the client hospital according to the internal rules 28 (FIG. 1), as described above. If

the client hospital has the lowest total cost per case (ranked first), the phrase "lowest total cost per case, followed by X with Y" is inserted at 231. The name of the second ranking hospital replaces "X", and the total cost per case of the second ranking hospital replaces "Y". If the client hospital has the highest total cost per case, the phrase "highest total cost per case" is inserted at 231. If the client hospital's total cost per case is greater than the competitor average, but not the highest, the rank of the client hospital's total cost per case is inserted at 231, followed by the phrase "highest total cost per case." If the client hospital's total cost per case is less than or equal to the competitor's average, but is not the lowest, the rank of the client hospital's total cost per case is inserted at 231, followed by the phrase "lowest total cost per case." For all of the above situations, except where the client hospital is ranked first, the phrase "X had the lowest total cost with Y dollars" is inserted after the last phrase at 231. In this case, the abbreviation of the name of the first ranked hospital replaces "X" and the first ranked hospital's total cost per case replaces "Y". At 233, the description of the client hospital Brockton Hospital is inserted").

Siegrist Jr et al does teach a ranking of the selected service providers employing the criteria of including the time interval since the last service performed by each service provider (Table IV, "age"), but does not identify the last date on which the service providers were assigned a service job when the customer has no preference, and then ranking the service providers by the last service job date, with the most recent service ranked last. However Siegrist Jr et al does teach ranking service providers by price ("average total cost per case", column 10, lines 25), by variance from an average industry price (fig 11c), by type of insurance (Table VIII, column 97), by average patient age ("Average Patient Age", Table IX, column 97) and by length of stay ("Total LOS", Table XI). A general reason that it would be useful to rank by the last date

a procedure was performed is that this would indicate how recent the service provider's

experience and expertise was with performing this service.

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to incorporate the age field (column 9, line 10, "age, charges, etc"), as a measure of

the last time an operation or service was performed in order to identify and compare medical

service providers. A timeliness measure of how recent the service providers experience and

expertise in a given procedure would be valuable to customers looking for a service provider

with the most recent, state of the art equipment and skills. Many customers would be willing to

pay a premium price for such cutting edge skills and would find this criteria to be just as

important as price in selecting a service provider. Similarly, finding the service provider with

the oldest date for having provided the service would be useful for a customer looking for the

service provider with the most amount of experience performing a specific service, and this too

would be as important as price to a customer looking for a premium service.

Siegrist does not teach the use of supplemental inducements data.

Borghesi teaches a system for processing and managing the maintenance cost data of a

service provider within the automobile insurance repair industry, (column 2, lines 50 - 54, "the

data file contains data on the insured, including policy information; data on a claim, such as the

extent of damage or injury; and data on satisfying a claim including repair estimates and total

loss valuation of, for example, an automobile"). Borghesi also teaches receiving from individual

service providers on an ongoing basis data regarding availability of discounts for a particular

service provider, and updating the database with current supplemental inducement data such as

discounts, ("the work file retains further information related to taxes, labor rates, discounts",

column 4, lines 61 - 63), wherein discounts and perks are types of supplemental service factors

or inducements listed in the applicant's specification. Both inventions are analogous art because

they both relate to calculating the cost structure of a service provider.

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to combine the cost and service selection aspects of the Siegrist Jr. invention with the

Borghesi discounts because discounts are an old and well known means for adjusting the price of

a product or service and a customer desiring to obtain the lowest competitive bid would want to

incorporate the possibility of a lower price into the decision process.

As per claims 51 and 52, Siegrist Jr. et al invention teaches ranking of service providers

as an application specific to the health care service provider industry, but does not specifically

relate to the automotive repair industry.

Borghesi et al teaches a system for processing automobile insurance repair claims

(column 2, lines 50 - 54, "the data file contains data on the insured, including policy information;

data on a claim, such as the extent of damage or injury; and data on satisfying a claim including

repair estimates and total loss valuation of, for example, an automobile"). Both inventions are

analogous art because they both relate to calculating the cost structure of a service provider.

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to combine the price and amenity shopping aspects of the Siegrist Jr. invention with

the Borghesi insurance claim processing functionality in order to create a device that would

allow an insurance claim process to incorporate more than one price quote from several service

providers because this would enable the insurance company to obtain the lowest competitive bid,

thereby saving the insurance company money by obtaining a comparable service for a lower price.

8.   Claims 49 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siegrist Jr. et al (US 5,652,842) in view of Borghesi et al (US 5,950,169) and in further view of the book "Electronic Commerce A Manager's Guide", by Ravi Kalakota and Andrew B. Whinston, published in 1997.

As per claim 49, while Siegrist, Jr et al does teach a ranking of the selected service providers employing the criteria of including the time interval since the last service performed by each service provider, but does not specifically discloses supplemental inducements or a method including billing the organization a fixed fee for each service coordinated transaction.

Borghesi teaches receiving from individual service providers on an ongoing basis data regarding availability of discounts for a particular service provider, and updating the database with current supplemental inducement data such as discounts, ("the work file retains further information related to taxes, labor rates, discounts", column 4, lines 61 - 63), wherein discounts and perks are types of supplemental service factors or inducements listed in the applicant's specification. Both inventions are analogous art because they both relate to calculating the cost structure of a service provider.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the price and amenity shopping aspects of the Siegrist Jr. invention with the Borghesi discounts because discounts are an old and well known means for adjusting the price of a product or service and a customer desiring to obtain the lowest competitive bid would want to incorporate the possibility of a lower price into the decision process.

Neither Siegrist, Jr nor Borghesi teach the use of a fixed fee for each service coordinated transaction.

The book, "Electronic Commerce" does teach the use of a processing fee for performing a service, ("Micropayments, or small-fee transactions, are the driver behind many of the new electronic token based methods. Micropayments typically involve nickel-and-dime transactions. For example, if company X charged five cents to download a customer service file cs123.txt from its FTP server and 20000 people chose to do it every day, then X would have $1,000 added to its bank account just for that one file", page 158). All three references are analogous art because they all involve aspects of calculating the cost of performing a service.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the combination of Siegrist and Borghesi with the Electronic Commerce reference because collecting a fee for the performance of a service is old and very well known in the art of electronic commerce. Collecting money to perform a service is essential if the firm, even if it is a non-profit, to obtain sufficient revenue to sustain operations. It would be obvious to charge on a per transaction basis in order to adequately associate revenue with the cost of performing a service.

As per claim 50, Siegrist, Jr et al teaches a method wherein the organization is at least one insurance company and the customer is a policyholder of said at least one insurance company, (column 97, lines 38 – 45, "Medicare, Blue Cross, HMO, Medicaid").

Response to Ammendments

9.   Applicant's arguments filed on July 8, 2004 have been fully considered, but the same are

not persuasive.

Applicant argues that the USC 101 rejection is invalid because the USC 101 statute does

not specifically require incorporation of a technological art and cites the State Street Bank case.

Examiner submits that the phrase "technological arts" has been created and used by the courts to

offer another view of the term "useful arts." See In re Musgrave, 167 USPQ (BNA) 280 (CCPA

1970). Hence, the first test of whether an invention is eligible for a patent is to determine if the

invention is within the "technological arts."

Further, despite the express language of §101, several judicially created exceptions have

been established to exclude certain subject matter as being patentable subject matter covered by

§101. These exceptions include "laws of nature," "natural phenomena," and "abstract ideas." See

Diamond v. Diehr, 450, U.S. 175, 185, 209 USPQ (BNA) 1, 7 (1981). However, courts have

found that even if an invention incorporates abstract ideas, such as mathematical algorithms, the

invention may nevertheless be statutory subject matter if the invention as a whole produces a

"useful, concrete and tangible result." See State Street Bank & Trust Co. v. Signature Financial

Group, Inc. 149 F.3d 1368, 1973, 47 USPQ2d (BNA) 1596 (Fed. Cir. 1998). This addresses the

second test under 35 U.S.C § 101 of whether or not an invention is eligible for a patent. The

Manual of Patent Examining Procedure reiterates this point. More specifically, MPEP §

2106(II)(A) states, "The claimed invention as a whole must accomplish z practical application.

That is, it must produce a 'useful, concrete and tangible result.' State Street, 149 F.3d at 1373, 47

USPQ2d at 1601-02." Furthermore, "Only when the claim is devoid of any limitation to a

practical application in the technological arts should it be rejected under 35 U.S.C. 101." (MPEP

§ 2106(1 I)(A)).

This "two prong" test was evident when the Court of Customs and Patent Appeals

(CCPA) decided an appeal from the Board of Patent Appeals and Interferences (BPAI). See In re

Toma, 197 USPQ (BNA) 852 (CCPA 1978). In Toma, the court held that the recited

mathematical algorithm did not render the claim as a whole non-statutory using the Freeman-

Walter-Abele test as applied to Gottschalk v. Benson, 409 U.S. 63, 175 USPQ (BNA) 673

(1972). Additionally, the court decided separately on the issue of the "technological arts."

The court developed a "technological arts" analysis:

> The "technological" or "useful" arts inquiry must focus on whether the
>
> claimed subject matter ... is statutory, not on whether the product of the
>
> claimed subject matter ... is statutory, not on whether the prior art
>
> which the claimed subject matter purports to replace ... is statutory, and
>
> not on whether the claimed subject matter is presently perceived to be
>
> an improvement over the prior art, e.g., whether it "enhances" the
>
> operation of a machine. In re Toma at 857.

In Toma, the claimed invention was a computer program for translating a source human

language (e.g., Russian) into a target human language (e.g., English). The court found that the

claimed computer implemented process was within the "technological art" because the claimed

invention was an operation being performed by a computer within a computer.

The decision in State Street Bank & Trust Co. v. Signature Financial Group, Inc. never

addressed this prong of the test. In State Street Bank & Trust Co., the court found that the

"mathematical exception" using the FreemanWalter-Abele test has little, if any, application to

determining the presence of statutory subject matter but rather, statutory subject matter should be

based on whether the operation produces a "useful, concrete and tangible result." See State Street

Bank & Trust Co. at 1374. Furthermore, the court found that there was no "business method

exception" since the court decisions that purported to create such exceptions were based on

novelty or lack of enablement issues and not on statutory grounds. Therefore, the court held that

"[w]hether the patent's claims are too broad to be patentable is not to be judged under §101, but

rather under §§102, 103 and 112." See State Street Bank & Trust Co. at 1377. Both of these

analyses go towards whether the claimed invention is non-statutory because of the presence of an

abstract idea. State Street never addressed the first part of the analysis, i.e., the "technological

arts" test established in Toma because the invention in State Street (i.e., a computerized system

for determining the year-end income, expense, and capital gain or loss for the portfolio) **was

already determined to be within the technological arts** under the Toma test. This dichotomy

has been recently acknowledged by the Board of Patent Appeals and Interferences in affirming a

§101 rejection finding the claimed invention to be non-statutory for failing the technological arts

test. See Ex parte Bowman, 61 USPQ2d (BNA) 1669 (BdPatApp&Int 2001).

What is indeed important to note in the Bowman decision is that the Board

acknowledged the dichotomy of the analysis of the claims under 35 U.S.C. § 101,

thereby emphasizing the fact that not only must the claimed invention produce a

"useful, concrete and tangible result," but that it must also be limited to the technological arts in

order to be deemed statutory under the guidelines of 35 U.S.C. § 101. The Board very explicitly

set forth this point:

[1] We agree with the examiner. Appellant has carefully avoided tying the disclosed and claimed invention to any technological art or environment. As noted by the examiner, the disclosed and claimed invention is directed to nothing more than a human making mental computations and manually plotting the results on a paper chart [answer, page 5]. The Examination Guidelines for Computer-Related Inventions are not dispositive of this case because there is absolutely no indication on this record that the invention is connected to a computer in any manner.

Despite the express language of 35 U.S.C. §101, several judicially created exceptions have been excluded from subject matter covered by Section 101. These exceptions include laws of nature, natural phenomenon, and abstract ideas. See Diamond v. Diehr, 450 U.S. 175, 185, 209 USPQ 1, 7(1981). We interpret the examiner's rejection as finding that the claimed invention before us is nothing more than an abstract idea because it is not tied to any technological art or environment. Appellant's argument is that the physical (even manual) creation of a chart and the plotting of a point on this chart places the invention within the technological arts.

The phrase "technological arts" has been created to offer another view of the term "useful arts." The Constitution of the United States authorizes and empowers the government to issue patents only for inventions which promote the progress [of science and] the useful arts. We find that the invention before us, as disclosed and claimed, does not promote the progress of science and the useful arts, and does not fall within the definition of technological arts. The abstract idea which forms the heart of the invention
before us does not become a technological art merely by the recitation in the claim of "transforming physical media into a chart" [sic, drawing or creating a chart] and "physically plotting a point on said chart."

In summary, we find that the invention before us is nothing more than an abstract idea which is not tied to any technological art, environment, or machine, and is not a useful art as contemplated by the Constitution of the United States. The physical aspects of claim 1, which are disclosed to be nothing more than a human manually drawing a chart and plotting points on this chart, do not automatically bring the claimed invention within the technological

arts. For all these reasons just discussed, we sustain the examiner's
rejection of the appealed claims under 35 U.S.C. §101. See Ex parte
Bowman, 61 USPQ2d (BNA) 1669, 1671 (BdPatApp&Int 2001)

Similarly, in the present application, claims 47 – 52 are deemed to be non-statutory

because they are not limited to the technological arts. The mention of utilizing a computer

system in the preamble of the claim is a nominal recitation of technology due to the fact that the

technology has not been incorporated in a manner where the technology is necessary to construct

or operate the claimed invention. Furthermore, the recited steps of providing a database of

service providers, receiving from service providers data regarding availability of supplemental

inducements, obtaining service need information, generating a list of service providers, ranking

service providers and presenting a list could be performed manually by a human, without the use

of technology, and reinforcing the fact that Appellant's invention fails to "promote the progress

of science and useful arts," as intended by the United States Constitution under Art. I, §8, cl. 8

regarding patent protection.

In conclusion, the Examiner submits that Appellant's claims do not meet the

technological arts requirement under 35 U.S.C. 101, as articulated in *Musgrave* and *Toma*.

Applicant argues that neither Siegrist nor Borghesi teach the use of supplemental

inducements. However Borghesi does teach incorporation of discounts, ("the work file retains

further information related to taxes, labor rates, discounts, and other expenses involved in

repairing a vehicle", column 4, lines 61 - 63), which are a subtraction from the price of a service

and do qualify as supplemental inducements given the broadest reasonable interpretation of the

term supplemental inducements, said term that is not defined in the applicant's specifications.

Applicant argues that neither Siegrist nor Borghesi teach incorporation of supplemental

inducements to influence the ranking of service providers by using special offers applicable to

particular types of customers, locations or times. However, the definition of supplemental

inducements, provided as supplemental service factors in the specification, does refer to

discounts as a form of an inducement, and the Borghesi reference does teach the use of a

discount ("the work file retains further information relating to taxes, labor rates, discounts",

column 4, lines 61 - 62). Therefore it would be obvious to perform the ranking of service

providers based on cost taught by the Siegrist reference while incorporate discounts taught by the

Borghesi reference because discounts are an old and well known means for lowering the cost of

an item by offering a purchaser a lower price based on a discounted amount.

In light of the above stated facts, examiner respectfully states that applicant's arguments

have been fully considered, deemed unpersuasive, and the rejections under the prior Office

action are maintained.

Conclusion

10.   No claims were allowed and all claims were rejected.

11.   Any inquiry concerning this communication or earlier communications from the

Examiner should be directed to Eric Shaffer whose telephone number is (703) 305-5283.

The Examiner can normally be reached on Monday-Friday, 8:30 am - 5:00 pm.

    If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Tariq Hafiz can be reached on (703) 305-9643.

    Any inquiry of a general nature or relating to the status of this application or proceeding
should be directed to the Receptionist whose telephone number is (703) 305-3900.

    Any response to this action should be mailed to:

            Commissioner of Patents and Trademarks
                  Washington D.C.   20231
Or faxed to:

        (703) 746-7238   [After Final communications, labeled "Box AF"]

        (703) 746-7239   [Official communications]

        (703) 706-9124   [Informal/Draft communications, labeled
                                "PROPOSED" or "DRAFT"]

    Hand delivered responses should be brought to Crystal Park 2, 2541 Crystal Drive,
Arlington, VA, 7th floor receptionist.

ETS
September 16, 2004

                                                    TARIQ R. HAFIZ
                                            SUPERVISORY PATENT EXAMINER
                                               TECHNOLOGY CENTER 3600